

Comment on the incompatibility between the draft Guidelines 02/2025 and the EU anti-money-laundering framework (TFR 2023/1113, AMLR 2024/1624)

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The draft Guidelines rightly confirm that public-blockchain identifiers (Bitcoin addresses) **may constitute personal data** (§ 3.2) and that the **right to erasure/rectification must remain effective** (§ 4.2-4.3).

However, the only technical mitigation proposed — **irreversible anonymisation** before writing on-chain — is **explicitly prohibited** or criminalised by the parallel EU AML package:

- **TFR 2023/1113** – Recital 17 : mixers, tumblers or privacy wallets are a “*high-risk factor*”; Art. 14-16 requires full identification of the originator and the beneficiary.
- **AMLR 2024/1624** – Art. 79(1) & Recital 160 : CASPs must “*not provide or keep accounts or addresses designed to anonymise*” crypto-asset transfers.
- French law 20 March 2025 (C. douanes Art. 415-1) creates a **presumption of money-laundering** for any operation using privacy-enhancing techniques.
- Netherlands, *Tornado Cash* judgment (ECLI:NL:RBOBR:2024:2069) treats anonymisation tools as inherently criminal.

Consequently, a data controller cannot simultaneously comply with the **Guidelines (anonymise)** and the **AML framework (forbid anonymisation)**.

This normative conflict produces a **de-facto ban on lawful Bitcoin use** — even where no criminal intent exists — and jeopardises the coherence required by Art. 16 TFEU and Recital 7 AMLD IV (“holistic approach”).

**This has a major impact on fundamental rights and innovation**

- **Privacy vs. AML** : The present draft, combined with AML instruments, deprives EU citizens of any **legitimate privacy option** (Charter, Arts 7-8) for blockchain payments.
- **Legal certainty (Art. 41 Charter)** : Individuals and SMEs cannot know which legal regime prevails; this undermines legal certainty and proportionality.
- **Innovation (Art. 173 TFEU)** : An outright “chilling effect” on open-blockchain R&D in the EU, pushing developers offshore.

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Without such clarifications, the final Guidelines will — unintentionally — trigger a **regulatory impasse** where any public-blockchain usage becomes unlawful **by construction**, despite Parliament and Council never legislating a ban.

I respectfully urge the EDPB to integrate the above amendments to preserve both the GDPR’s protective intent and the EU’s commitment to balanced, innovation-friendly regulation.

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